

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 888
FINAL READING

Introduced by Friend, 10; Brown, 6; Combs, 32; Connealy, 16;
Hartnett, 45; Janssen, 15; Schimek, 27

Read first time January 7, 2004

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to energy codes; to amend sections 72-804 to
2 72-806, 81-1608, 81-1613 to 81-1615, 81-1617, 81-1618,
3 81-1620, 81-1622, and 81-1625, Reissue Revised Statutes
4 of Nebraska, and sections 81-1609, 81-1611, and 81-1616,
5 Revised Statutes Supplement, 2002; to change and
6 harmonize provisions relating to state and local energy
7 codes and standards; to provide operative dates; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 72-804, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 72-804. (1) Any new state building shall meet or exceed
4 the requirements of the ~~2000~~ 2003 International Energy Conservation
5 Code.

6 (2) Any new lighting, heating, cooling, ventilating, or
7 water heating equipment or controls in a state-owned building and
8 any new building envelope components installed in a state-owned
9 building shall meet or exceed the requirements of the ~~2000~~ 2003
10 International Energy Conservation Code.

11 (3) The State Building Administrator of the Department of
12 Administrative Services, in consultation with the State Energy
13 Office, may specify:

14 (a) A more recent edition of the International Energy
15 Conservation Code;

16 (b) Additional energy efficiency or renewable energy
17 requirements for buildings; and

18 (c) Waivers of specific requirements which are
19 demonstrated through life-cycle cost analysis to not be in the
20 state's best interest. The agency receiving the funding shall be
21 required to provide a life-cycle cost analysis to the State
22 Building Administrator.

23 Sec. 2. Section 72-805, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 72-805. The 2003 International Energy Conservation Code
26 applies to all new buildings constructed in whole or in part with
27 state funds after ~~January 1, 2000~~ July 1, 2005. The State Energy
28 Office shall review building plans and specifications necessary to

1 determine whether a building will meet the requirements of this
2 section. The State Energy Office shall provide a copy of its
3 review to the agency receiving funding. The agency receiving the
4 funding shall verify that the building as constructed meets or
5 exceeds the code. The verification shall be provided to the State
6 Energy Office. The State Energy Office shall, in consultation with
7 the State Building Administrator of the Department of
8 Administrative Services, adopt and promulgate rules and regulations
9 to carry out this section.

10 Sec. 3. Section 72-806, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 72-806. The enforcement provisions of Chapter 1 of the
13 ~~2000~~ 2003 International Energy Conservation Code shall not apply to
14 buildings subject to ~~sections 72-804 and 72-805~~ section 72-804.

15 Sec. 4. Section 81-1608, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-1608. The Legislature finds that ~~there is a present~~
18 ~~and continuing need to provide for the development and~~
19 ~~implementation of minimum statewide lighting and thermal efficiency~~
20 ~~standards for buildings, to insure coordination with federal policy~~
21 ~~under the Energy Conservation Standards for New Buildings Act of~~
22 ~~1976, to promote the conservation of our dwindling energy~~
23 ~~resources, and to provide for the public health, safety, and~~
24 ~~welfare~~ consumers have an expectation that newly built houses or
25 buildings they buy meet uniform energy efficiency standards.
26 Therefor, the Legislature finds that there is a need to adopt the
27 2003 International Energy Conservation Code in order (1) to ensure
28 that a minimum energy efficiency standard is maintained throughout

1 the state, (2) to harmonize and clarify energy building code
2 statutory references, (3) to ensure compliance with the National
3 Energy Policy Act of 1992, (4) to increase energy savings for all
4 Nebraska consumers, especially low-income Nebraskans, (5) to reduce
5 the cost of state programs that provide assistance to low-income
6 Nebraskans, (6) to reduce the amount of money expended to import
7 energy, (7) to reduce the growth of energy consumption, (8) to
8 lessen the need for new power plants, and (9) to provide training
9 for local code officials and residential and commercial builders
10 who implement the 2003 International Energy Conservation Code.

11 Sec. 5. Section 81-1609, Revised Statutes Supplement,
12 2002, is amended to read:

13 81-1609. As used in sections 81-1608 to 81-1626, unless
14 the context otherwise requires:

15 (1) Office ~~shall mean~~ means the State Energy Office;

16 (2) Contractor ~~shall mean~~ means the person or entity
17 responsible for the overall construction of any building or the
18 installation of any component which affects the energy efficiency
19 of the building;

20 (3) Architect or engineer ~~shall mean~~ means any person
21 licensed as an architect or professional engineer under the
22 Engineers and Architects Regulation Act;

23 (4) Building ~~shall mean~~ means any new structure,
24 renovated building, or addition which provides facilities or
25 shelter for public assembly, educational, business, mercantile,
26 institutional, warehouse, or residential occupancies, as well as
27 those portions of factory and industrial facilities which are used
28 primarily for human occupancy, such as office space, but not

1 including any structure which has a consumption of traditional
2 energy sources for all purposes not exceeding the energy equivalent
3 of one watt per square foot;

4 (5) Residential building ~~shall mean~~ means a building
5 three stories or less that is used primarily as one or more
6 dwelling units;

7 (6) Renovation ~~shall mean~~ means alterations on an
8 existing building which will cost more than fifty percent of the
9 replacement cost of such building at the time work is commenced or
10 which was not previously heated or cooled, for which a heating or
11 cooling system is now proposed, except that the restoration of
12 historical buildings shall not be included;

13 (7) Addition ~~shall mean~~ any construction added to an
14 existing building which will increase the floor area of that
15 building by five percent or more means an extension or increase in
16 the height, conditioned floor area, or conditioned volume of a
17 building or structure;

18 (8) Floor area ~~shall mean~~ means the total area of the
19 floor or floors of a building, expressed in square feet, which is
20 within the exterior faces of the shell of the structure which is
21 heated or cooled;

22 (9) Nebraska ~~Building Energy Conservation Standard shall~~
23 ~~mean the Model Energy Code, 1983 Edition, of the Council of~~
24 ~~American Building Officials~~ Energy Code means the 2003
25 International Energy Conservation Code; and

26 (10) Traditional energy sources ~~shall mean~~ means
27 electricity, petroleum-based fuels, uranium, coal, and all
28 nonrenewable forms of energy; and

1 (11) Equivalent or equivalent code means standards that
2 meet or exceed the requirements of the Nebraska Energy Code.

3 Sec. 6. Section 81-1611, Revised Statutes Supplement,
4 2002, is amended to read:

5 81-1611. The Legislature hereby adopts the ~~Model Energy~~
6 ~~Code, 1983 Edition, of the Council of American Building Officials~~
7 ~~as the Nebraska Building Energy Conservation Standard 2003~~
8 International Energy Conservation Code as the Nebraska Energy Code.
9 The State Energy Office may adopt regulations specifying
10 alternative standards for building systems, techniques, equipment
11 designs, or building materials that ~~will be considered~~ shall be
12 deemed equivalent to the Nebraska ~~Building Energy Conservation~~
13 ~~Standard Energy Code.~~ Regulations specifying alternative standards
14 may be ~~found~~ deemed equivalent to the Nebraska Energy Code Building
15 ~~Energy Conservation Standard~~ and may be approved for general or
16 limited use if the use of such alternative standards would not
17 result in energy consumption greater than would result from the
18 strict application of the Nebraska ~~Building Energy Conservation~~
19 ~~Standard Energy Code.~~

20 Sec. 7. Section 81-1613, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-1613. The State Energy Office shall produce manuals
23 for use by architects, engineers, prime contractors, and owners.
24 ~~The~~ Such manuals shall be furnished upon request at a price
25 sufficient to cover the costs of production. ~~The~~ Such manuals
26 shall contain, but not be limited to:

27 (1) The Nebraska ~~Building Energy Conservation Standard~~
28 Energy Code;

1 (2) Forms, charts, tables, and other data to assist
2 architects, engineers, and prime contractors in meeting the
3 Nebraska ~~Building Energy Conservation Standard~~ Energy Code; and

4 (3) Any other information which the office ~~finds~~
5 determines will assist local code officials in enforcing the
6 ~~standards~~ code.

7 Sec. 8. Section 81-1614, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1614. The Nebraska ~~Building Energy Conservation~~
10 ~~Standard~~ Energy Code shall apply to all new buildings, or
11 renovations of or additions to any existing buildings, on which
12 construction is initiated on or after ~~August 26, 1983~~ July 1, 2005.

13 Sec. 9. Section 81-1615, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-1615. ~~(1)~~ The following shall be exempt from sections
16 81-1608 to 81-1626:

17 ~~(a)~~ (1) Any building which has a peak design rate of
18 energy usage for all purposes of less than one watt, or three and
19 four-tenths British Thermal Units per hour, per square foot of
20 floor area;

21 ~~(b)~~ (2) Any building which is neither heated nor cooled;

22 ~~(c)~~ (3) Any building or portion thereof which is owned by
23 the United States of America;

24 ~~(d)~~ (4) Any manufactured home as defined by section
25 71-4603;

26 ~~(e)~~ (5) Any modular housing unit as defined by ~~subsection~~
27 subdivision (1) of section 71-1557; and

28 ~~(f)~~ (6) Any building ~~(i)~~ (a) listed on the National

1 Register of Historic Places, ~~(ii)~~ (b) determined to be eligible for
2 the National Register of Historic Places by the State Historic
3 Preservation Officer, or ~~(iii)~~ (c) designated as an individual
4 landmark or heritage preservation site by a municipality or located
5 within a designated landmark or heritage preservation district. ~~+~~
6 and

7 ~~(g) Any building to be renovated that is located within~~
8 ~~an area that has been designated blighted by a municipality.~~

9 ~~(2) All residential buildings shall be exempt from~~
10 ~~lighting efficiency standards.~~

11 Sec. 10. Section 81-1616, Revised Statutes Supplement,
12 2002, is amended to read:

13 81-1616. For purposes of insuring compliance with
14 section 81-1614:

15 (1) The office, or its authorized agent, may conduct such
16 inspections and investigations as are necessary to make a
17 determination pursuant to section 81-1625 and may issue an order
18 containing and resulting from the findings of such inspections and
19 investigations; and

20 (2) A building owner may submit a written request that
21 the office undertake a determination pursuant to subdivision (1) of
22 this section. Such request shall include a list of reasons why the
23 building owner believes such a determination is necessary.

24 A building owner aggrieved by the office's determination,
25 or refusal to make such determination, may appeal such
26 determination or refusal as provided in the Administrative
27 Procedure Act.

28 The office may charge an amount sufficient to recover the

1 costs of providing such determinations.

2 Buildings located in a county, city, or village which has
3 adopted the Nebraska ~~Building Energy Conservation Standard~~ Energy
4 Code or equivalent ~~standard~~ code pursuant to section 81-1618, and
5 constructed after the adoption of such ~~standard~~ code, shall be
6 exempt from the provisions of this section.

7 Sec. 11. Section 81-1617, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-1617. The State Energy Office and any local code
10 authority may conduct inspections and investigations necessary to
11 enforce the Nebraska ~~Building Energy Conservation Standard~~ Energy
12 Code or equivalent ~~standard~~ code and may, at reasonable hours,
13 enter into any building and upon any premises within its
14 jurisdiction for the purpose of examination to determine compliance
15 with sections 81-1608 to 81-1626. Inspections shall be conducted
16 only after permission has been granted by the owner or occupant or
17 after a warrant has been issued pursuant to sections 29-830 to
18 29-835.

19 Sec. 12. Section 81-1618, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-1618. Any county, city, or village may adopt and
22 enforce a lighting and thermal efficiency ordinance, resolution,
23 code, or standard. Such ordinance, resolution, code, or standard
24 shall be ~~considered~~ deemed equivalent to the Nebraska ~~Building~~
25 ~~Energy Conservation Standard~~ Energy Code if it ~~would~~ does not
26 result in energy consumption greater than would result from the
27 strict application of the Nebraska ~~Building Energy Conservation~~
28 ~~Standard~~ Energy Code and is reasonably consistent with the intent

1 of sections 81-1608 to 81-1626. Any building or portion thereof
2 subject to the jurisdiction of, and inspected by such county, city,
3 or village shall be deemed to comply with sections 81-1608 to
4 81-1626 if it meets the standards of such ordinance, resolution,
5 code, or standards. Such county, city, or village may by ordinance
6 or resolution prescribe a schedule of fees sufficient to pay the
7 costs incurred pursuant to sections 81-1608 to 81-1626.

8 Any county, city, or village which adopts and enforces a
9 lighting and thermal efficiency ordinance, resolution, code, or
10 standard may waive a specific requirement of the Nebraska Energy
11 Code when meeting such requirement is not economically justified.
12 The local code authority shall submit to the State Energy Office
13 its analysis for determining that a specific requirement is not
14 justified. The State Energy Office shall review such analysis and
15 transmit its findings and conclusions to the local code authority
16 within a reasonable time. The local code authority shall submit to
17 the State Energy Office its explanation as to how the original code
18 or any revised code addresses the issues raised by the State Energy
19 Office. After a local code authority has submitted such
20 explanation, the authority may proceed to enforce its ordinance,
21 resolution, code, or standard.

22 Sec. 13. Section 81-1620, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-1620. The State Energy Office shall establish a
25 continuing program ~~of~~ to provide technical assistance to ~~any~~
26 ~~county, city, or village which adopts and enforces or is~~
27 ~~considering adopting and enforcing the Nebraska Building Energy~~
28 ~~Conservation Standard or equivalent standard~~ local code officials

1 and residential and commercial builders. The program shall include
2 the training of local code officials in building technology and
3 local enforcement procedure related to ~~lighting and thermal~~
4 ~~efficiency standards,~~ implementation of the Nebraska Energy Code
5 and the development of training programs suitable for presentation
6 by local governments, educational institutions, and other public or
7 private entities.

8 Sec. 14. Section 81-1622, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-1622. Prior to the construction, renovation, or
11 addition to any existing building after the dates specified in
12 section 81-1614 the following requirements shall be met where a
13 county, city, or village has not adopted an ordinance, resolution,
14 code, or standard pursuant to section 81-1618:

15 (1) When no architect or engineer is retained, the prime
16 contractor shall build or cause to be built, to the best of his or
17 her knowledge, according to the Nebraska ~~Building Energy~~
18 ~~Conservation Standard~~ Energy Code; and

19 (2) When an architect or engineer is retained: (a) The
20 architect or engineer shall place his or her state registration
21 seal on all construction drawings which shall indicate that the
22 design meets the Nebraska ~~Building Energy Conservation Standard~~
23 Energy Code and (b) the prime contractor responsible for the actual
24 construction shall build or cause to be built in accordance with
25 the construction documents prepared by the architect or engineer.

26 Sec. 15. Section 81-1625, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 81-1625. If the Director of the State Energy Office or

1 the local code authority finds, within two years from the date a
2 building is first occupied, that the building, at the time of
3 construction, did not comply with the Nebraska ~~Building Energy~~
4 ~~Conservation Standard~~ Energy Code or equivalent ~~standard code~~
5 adopted by a county, city, or village in effect at such time, the
6 director or code authority may order the owner or prime contractor
7 to take those actions necessary to bring the building into
8 compliance. This section does not limit the right of the owner to
9 bring civil action against the contractor, architect, or engineer
10 for the cost of bringing the building into compliance.

11 Sec. 16. Sections 1 to 12, 14, 15, and 17 of this act
12 become operative on July 1, 2005. The other sections of this act
13 become operative on their effective date.

14 Sec. 17. Original sections 72-804 to 72-806, 81-1608,
15 81-1613 to 81-1615, 81-1617, 81-1618, 81-1622, and 81-1625, Reissue
16 Revised Statutes of Nebraska, and sections 81-1609, 81-1611, and
17 81-1616, Revised Statutes Supplement, 2002, are repealed.

18 Sec. 18. Original section 81-1620, Reissue Revised
19 Statutes of Nebraska, is repealed.